

EXHIBIT 3

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANDREW E. ROTH,

Plaintiff,

-v-

FORIS VENTURES, LLC, VALLEJO
VENTURES TRUST U/T/A 2/12/96, L.
JOHN DOERR, ANN DOERR, and
BARBARA HAGER,

Defendants,

and

AMYRIS, INC.,

Nominal Defendant.

Case No.

COMPLAINT

(Jury Trial Demanded)

1 Plaintiff Andrew E. Roth (“Roth”), by his undersigned attorneys, alleges upon
2 information and belief as to all paragraphs except paragraph 2, as follows:

3 **NATURE OF THE ACTION**

4 1. This is an action to obtain disgorgement of “short-swing” profits obtained by
5 Defendants from purchases and sales of Common Stock, \$0.0001 par value per share (“Common
6 Stock”) of Nominal Defendant Amyris, Inc. (“Amyris” or the “Company”) in violation of Section
7 16(b) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78p(b) (“§16(b)
8 or Section 16(b)”).

9 **THE PARTIES**

10 2. Plaintiff Roth is a New York resident who is an owner of Amyris Common Stock.

11 3. Defendant Foris Ventures, LLC (“FV”), is a Delaware limited liability company
12 with its principal place of business at 751 Laurel Street #717, San Carlos, CA 94070. FV is a
13 private investment company.

14 4. Defendant Vallejo Ventures Trust U/T/A 2/12/96 (“VVT”) is the member of FV.
15 Defendants L. John Doerr (“J. Doerr”) and Ann Doerr (“A. Doerr”) are the trustees of VVT, and
16 defendant Barbara Hager (“Hager”) is the special trustee of VVT and manager of FV. VVT has
17 a business and mailing address c/o Foris Ventures, LLC, 751 Laurel Street #717, San Carlos, CA
18 94070.

19 5. Defendants J. Doerr, A. Doerr and Hager are individuals with a business address
20 c/o Foris Ventures, LLC, 751 Laurel Street #717, San Carlos, CA 94070. J. Doerr has been a
21 member of the Board of Directors of Amyris since 2006, and indirectly owns all membership
22 interests in FV. See Amyris Schedules 14A, Proxy Statements, filed with the U.S. Securities and
23 Exchange Commission (“SEC”) on April 17, 2020 and April 12, 2021. An organizational chart
24 showing the Defendants’ relationships as described in paragraphs 3-5 is annexed as Exhibit 1.

25 6. Nominal Defendant Amyris is a Delaware corporation with offices at 5885 Hollis
26 Street, Suite 100, Emeryville, CA 94608, which trades on the Nasdaq Capital Market exchange
27 under the symbol AMRS.

Jurisdiction and Venue

7. This action is brought derivatively on behalf of Amyris pursuant to Section 16(b). Jurisdiction of this Court and venue in this District are proper pursuant to 15 U.S.C. § 78aa in that Defendants transact business in this District, and certain of the acts underlying this action occurred in this District. Intradistrict Assignment: Defendants maintain offices in the County of San Mateo. As such, this action may be properly assigned to the San Francisco/Oakland division of this Court pursuant to Civil Local Rule 3-2(d).

Governing Law

8. Section 16(a) of the Exchange Act defines a “statutory insider” as [e]very person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security . . . which is registered pursuant to section 12, or who is a director or an officer of the issuer of such security.” 15 U.S.C. §78p(a)(1).

9. Section 16(b) provides for disgorgement of “any profit realized” by any statutory insider whenever there is “(1) a purchase and (2) a sale of securities (3) by an officer or director of the issuer or by a shareholder who owns more than ten percent of any one class of the issuer’s securities (4) within a six-month period.” *Gwozdzinsky v. Zell/Chilmark Fund, L.P.*, 156 F.3d 305, 308 (2d Cir. 1998). Suit to recover any profits arising from those transactions are recoverable by the issuer or by a shareholder suing derivatively on its behalf.

Defendants’ Status as Statutory Insiders

10. At all relevant times, FV was a greater than 10% beneficial owner of Amyris Common Stock and derivative securities relating to Amyris Common Stock, and therefore a statutory insider for purposes of §§16(a) and (b) of the Exchange Act.

11. At all relevant times, FV was a direct owner and had a hundred percent pecuniary interest in its holdings in Amyris Common Stock and derivative securities relating to Amyris Common Stock.

12. At all relevant times, defendants VVT, Hager, J. Doerr, and A. Doerr were greater than 10% beneficial owners because each had shared voting and/or investment power in FV’s

1 holdings in Amyris Common Stock and related derivative securities.

2 13. Defendants garnered short-swing profits in the transactions hereinafter set forth
3 that must be disgorged to Amyris.

4 **Defendants' Short-Swing Transactions**

5 14. In an Amendment No. 2 to an SEC Schedule 13D filing dated July 18, 2019, FV
6 reported that on April 15, 2019, it purchased: (i) 6,732,369 shares of Amyris Common Stock at
7 a purchase price of \$2.87; and (ii) warrants to purchase 5,424,804 shares of Common Stock at a
8 price of \$0.125 per warrant, an exercise price of \$2.87 per share, and a term of two years. The
9 aggregate purchase price for Common Stock and warrants was \$20 million (the "2019 Purchase
10 Agreement"). See, SEC Form 4 by J. Doerr filed April 17, 2019.

11 15. Based on the market price of the Amyris Common Stock under the 2019 Purchase
12 Agreement it is believed that the value of the warrants is substantially greater than the assigned
13 \$0.125 warrant price. Attribution of the market value to the warrants effectively reduces the
14 purchase price of the Amyris Common Stock under the agreement in an amount which cannot be
15 determined based upon Defendants SEC filings.

16 16. In an SEC Form 4/A filing dated July 12, 2019, the Defendant J. Doerr reported
17 that FV and the Company had, on July 10, 2019, amended warrants to purchase 4,877,386 shares
18 to lower the exercise price from \$7.52 per share to \$2.87 per share. This amendment constituted
19 a cancellation and re-grant, with the cancellation representing a matchable disposition of the
20 original warrant at a deemed sale price of \$3.21 per share (representing the closing price on July
21 10, 2019). Matching the April 15, 2019 purchase of 6,732,369 shares of Amyris Common Stock
22 at a purchase price of \$2.87 with the July 10, 2019 disposition of 4,877,386 at \$3.21 per share
23 yields short-swing profits of at least \$1,658,311.24. Additional short-swing profits are
24 attributable to this matching of trading based on a market valuation of the warrants in the 2019
25 Purchase Agreement. See par. 15, *supra*.

26 17. In two SEC Form 4/A filings dated August 30, 2019, Defendant J. Doerr reported
27 that on August 28, 2019, FV and the Company amended warrants to purchase 3,983,230 shares
28

1 to lower the exercise price from \$5.12 per share to \$3.90 per share and amended warrants to
2 purchase 352,638 shares to lower the exercise price from \$4.56 per share to \$3.90 per share.
3 Such amendments constituted cancellations and re-grants, with the re-grants representing
4 matchable dispositions of the original warrants at a deemed sale price of \$3.67 per share
5 (representing the closing price on August 28, 2019) (the “August 28, 2019 dispositions”).

6 18. In four SEC Form 4/A filings dated February 4, 2020, Defendant J. Doerr reported
7 that on January 31, 2020, FV and the Company: (i) amended warrants to purchase 3,983,230
8 shares to lower the exercise price from \$3.90 per share to \$2.87 per share; (ii) amended warrants
9 to purchase 1,000,000 shares to lower the exercise price from \$3.87 per share to \$2.87 per share;
10 (iii) amended warrants to purchase 4,871,795 shares from \$3.87 per share to \$2.87 per share; and
11 (iv) amended warrants to purchase 352,638 shares to lower the exercise price from \$3.90 per
12 share to \$2.87 per share. The foregoing amendments constituted cancellations and re-grants,
13 with the re-grants representing matchable acquisitions of the amended warrants at a deemed
14 purchase price of \$2.56 per share (representing the closing price on January 31, 2020) (the
15 “January 31, 2020 acquisitions”). Matching the January 31, 2020 acquisitions with the August
16 28, 2019 dispositions results in short-swing profits of \$4,812,813.

17 19. Accordingly, Defendants realized total short-swing profits of at least \$6,471,124
18 which must be disgorged to the Company.

19 **Allegations as to the Demand**

20 20. On March 30, 2021, Plaintiff made demand on the Board of Directors of the
21 Company to commence this lawsuit based on the facts alleged above. Thereafter, on May 18,
22 2021, Plaintiff sent the Board of Directors a follow-up letter via facsimile and FEDEX requesting
23 their advice in this matter. To date, the Company has not responded to the demand or pursued
24 legal action.

25 **AS AND FOR A FIRST CLAIM FOR RELIEF**
26 **AGAINST FORIS VENTURES, LLC**
27
28

21. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 20, *supra*, as if fully set forth herein.

22. At all relevant times, FV was a greater than 10% beneficial owners of Amyris Common Stock and derivative securities relating to the Common Stock.

23. As particularized in paragraphs 14-19, *supra*, during the period April 15, 2019 to January 31, 2020, FV engaged in purchase and sale transactions in Amyris Common Stock and related derivative securities resulting in disgorgeable short-swing profits in the amount of at least \$6,471,124.

24. FV is liable to disgorge the entirety of the short-swing profits to the Company.

**IN THE ALTERNATIVE, AS AND FOR A SECOND CLAIM FOR RELIEF
AGAINST DEFENDANTS VVT, HAGER, J. DOERR AND A. DOERR**

25. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 24, *supra*, as if fully set forth herein.

26. Defendants VVT, Hager, J. Doerr and A. Doerr were greater than 10% beneficial owners and statutory insiders because each had shared voting and/or investment power in FV's holdings in Amyris Common Stock and related derivative securities.

27. As particularized in paragraphs 14-19, *supra*, during the period April 15, 2019 to January 31, 2020, FV engaged in purchase and sale transactions in Amyris Common Stock and related derivatives which resulted in disgorgeable short-swing profits in the amount of at least \$6,471,124.

28. Defendants are each liable to disgorge the FV Group's short-swing profits to the extent of their respective pecuniary interests in FV's short-swing profits. SEC Rule 16a-1(a)(2).

WHEREFORE, Plaintiff demands judgment, on behalf of Amyris, against Defendants, as described above, plus attorneys' fees, pre-judgment interest and such other and further relief as to the Court may seem just and proper.

1 Dated: June 4, 2021

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Exhibit 1

Organizational Chart

